UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,194	04/02/2004	Tatsuya Aoyama	Q80870	7525

23373   7590   12/24/2008
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EXAMINER
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ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
12/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09/09/08 and 10/09/08*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-21* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *02 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some * c)☐ None of:
      1.☒ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/09/08 and 09/09/08 has been entered.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3.   Claims 11 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 11 and 12 set forth **"a computer readable medium"** that lack support in the originally filed specification, and therefore constitutes new matter in the claim. It is

noted that the "computer readable medium" is much broader than what has been defined in the specification.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11 and 12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject mater as follows. Claim 11 and 12 sets forth a "computer readable medium". However, the specification as originally filed makes no mention of a computer readable medium, and is also silent as to what elements are considered to be encompassed by a computer readable medium. Since the specification as originally filed provides no definition of what encompasses the claimed computer readable medium, the examiner maintains that the claimed computer readable medium encompasses both statutory subject matter (e.g. disc, tape, RAM, ROM) as well as non-statutory subject matter (e.g. signal or carrier wave), thereby necessitating the rejection of claim 20 under 35 U.S.C. 101.

Response to Amendment

5.   The amendments, filed on 09/09/08, have been entered and made of record. Claims 1-21 are pending.

Response to Arguments

6.   Applicant's arguments filed 09/09/08 have been fully considered but they are not persuasive.

7.   The applicant representative states that "it was agreed during the interview on 08/04/08 that the present claims would be patentably distinguishable over Terashita if amended to recite that the models of digital cameras are classified into at least two groups of predetermined level ranges". Therefore, "the Applicant respectfully submit that because Terashita fails to disclose classifying models of digital cameras into at least two groups, wherein each group has a different level of a characteristic of image data, this reference fails to disclose all the features recited in claim 1. More specifically, Terashita fails to disclose that each group has a different level of the characteristic of the image data".

8.   The Examiner agrees that during the interview on 08/04/08, the proposed claims amendment appeared to be overcome the Terashita reference.

9.   However, upon further consideration. The Examiner believes that the Terashita reference still reads on the amended independent claims 1, 5, 9. Through out the applied reference, Terashita only discloses a camera kind information C. However, Terashita further discloses that in according with a camera kind information C appended

into image signal S, the selection mean 6 selects the image processing conditions, which corresponds to the camera kind information C (0031-0033). It is noticed that the classification recording means 8 of Fig. 1 classifies or contains more than two image processing conditions (Fig. 1; 0031: see image processing condition 1 to image processing condition n). Therefore, the digital camera kind information C are inherently classified in more than two groups because each of the camera kind information C corresponding to each of the image processing condition. Further more, Terashita teaches that the pieces of information representing the image processing condition (1,2,3…) varying for different camera kinds (0031 and 0035).

10. Terashita teaches a digital camera that appends camera kind information C as tag information to a digital image signal S, wherein the camera kind information C represents the kind of camera, manufacturer and the device type of the digital camera 1 (0029-0030). Therefore, different camera manufacturers and device types of digital cameras inherently produce different camera kind information C and thus appending different characteristic of camera kind information in to image signal S.

Claim Rejections - 35 USC § 102

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12.   Claims 1-2, 5-6 and 9-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Terashita (US-2002/0,140,825).

With regarding **claim 1**, Terashita discloses an image processing method comprising:

carrying out classification of models of digital cameras into at least two groups of predetermined level ranges according to level of a characteristic of image data due to the models of the digital cameras that obtained the image data (0030-0033: digital camera kind information C are inherently classified in more than two groups because each of the camera kind information C corresponding to each of the image processing condition; Fig. 1 further shows more than two image processing conditions), each group having different level of the characteristic of the image data (abstract; 0008-0011; 0029-0030: different camera manufacturers and device types of digital cameras inherently produce different cameras kind information C and thus appending different characteristics of cameras kind information to image signal S):

carrying out setting of an image processing condition (Fig. 1; image processing means 4) for carrying out correction according to the level range of each of the groups (6 and 8; 0032-0035); and

carrying out the correction on image data obtained by a digital camera (image output means 5) belonging to any one of the groups by using the image processing condition set therefor (see image processing means 4 and image output means 5; 0035-0038).

With regarding **claim 2**, Terashita discloses the image processing wherein the characteristic includes a plurality of types and the classification, the setting (abstract; 0030), and the correction are carried out for each of the types of the characteristic (0031-0033).

With regarding **claim 5**, Terashita discloses an image processing apparatus comprising: storage means for storing:

models of digital cameras classified into at least two groups of predetermined level ranges according to level of a characteristic of image data due to the models of the digital cameras that obtained the image data (0030-0033: digital camera kind information C are inherently classified in more than two groups because each of the camera kind information C corresponding to each of the image processing condition; Fig. 1 further shows more than two image processing conditions), each group having a different level of the characteristic of the image data (abstract; 0008-0011; 0029-0030: different camera manufacturers and device types of digital cameras inherently produce different cameras kind information C and thus appending different characteristics of cameras kind information to image signal S);

the at least two groups (0030) and image processing conditions set for carrying out correction according to the level ranges of the respective groups while relating the models, the groups, and the image processing conditions to each other (0031-0033);

search means (selection means 6) for making judgment as to which of the groups a digital camera belongs to from the model of the digital camera that obtained image data to be corrected and for carrying out reading of the image processing condition set for the group that has been judged while referring to the storage means (0031; 0033; 0035: the selection means 6 inherently judges the groups of digital camera in order to select the optimum image processing conditions from the camera classification recording means 8); and

correction execution means for carrying out the correction on the image data obtained by the digital camera by using the image processing condition found by the search means (0031; 0035).

With regarding **claim 6**, Terashita discloses the image processing apparatus according to claim 5, the characteristic including a plurality of types, the storage means storing the models, the groups, and the image processing conditions in relation to each other for each of the types of the characteristic (0030; 0032; 0038-0040); and the search means (6) and the correction execution means (image processing means 4) carrying out the judgment, the reading, and the correction for each of the types of the characteristic (0033; 0035; 0041).

With regarding **claim 9**, Terashita discloses a database recorded on a computer readable medium storing:

models of digital cameras classified into at least two groups of predetermined level ranges according to level of a characteristic of image data due to the models of the digital cameras that obtained the image data the groups (0030-0033: digital camera kind information C are inherently classified in more than two groups because each of the camera kind information C corresponding to each of the image processing condition; Fig. 1 further shows more than two image processing conditions), each group having a different level of the characteristic of the image data (abstract; 0008-0011; 0029-0030: different camera manufacturers and device types of digital cameras inherently produce different cameras kind information C and thus appending different characteristics of cameras kind information to image signal S);

the at least two groups (0030-0033) and image processing conditions set (image processing means 4) for carrying out correction according to the level ranges of the respective groups while relating the models, the groups, and the image processing conditions to each other (0031-0035; 0041).

With regarding **claim 10**, Terashita discloses the medium wherein the characteristic includes a plurality of types and the database stores the models, the groups and the image processing conditions in relation to each other for the respective types of the characteristic (0030; 0032; 0038-0040).

With regarding **claim 11**, Terashita discloses a program recorded on a computer readable medium causing a computer to execute:

search processing (selection means 6) for making judgment as to which of the groups a digital camera that obtained image data to be corrected belongs to from the model of the digital camera and for carrying out reading of the image processing condition set for the group that has been judged while referring to the database in claim 9 (0031; 0033; 0035: the selection means 6 inherently judges the groups of digital camera in order to select the optimum image processing conditions from the camera classification recording means 8); and

correction execution processing for carrying out the correction on the image data obtained by the digital camera by using the image processing condition found through the search processing (0031-0038; 0041).

With regarding **claim 12**, Terashita discloses a program recorded on a computer readable medium causing a computer to execute:

search processing (selection means 6) for making judgment as to which of the groups a digital camera that obtained image data to be corrected belongs to for each of the types of the characteristic from the model of the digital camera and for carrying out reading of the image processing condition set for the group that has been judged while referring to the database in claim 10 (0031; 0033; 0035: the selection means 6 inherently judges the groups of digital camera in order to select the optimum image processing conditions from the camera classification recording means 8); and

correction execution processing for carrying out the correction on the image data obtained by the digital camera by using the image processing condition found through the search processing for each of the types (0031-0038; 0041).

With regarding **claim 13**, Terashita discloses the image processing method according to Claim 1, wherein each predetermined level range corresponds to an exclusively different range of the level of the characteristic of the image data ([0030-0032; 0035; 0038-0042]).

With regarding **claim 14**, Terashita discloses the image processing apparatus according to Claim 5, wherein each predetermined level range corresponds to an exclusively different range of the level of the characteristic of the image data ([0030-0032; 0035; 0038-0042]).

With regarding **claim 15**, Terashita discloses the database according to Claim 9, wherein each predetermined level range corresponds to an exclusively different range of the level of the characteristic of the image data ([0030-0032; 0035; 0038-0042]).

With regarding **claim 16**, Terashita discloses the image processing method according to Claim 1, wherein the characteristic of the image is one of color, tone, sharpness or noise ([0035-0037]).

With regarding **claim 17**, Terashita discloses the image processing apparatus according to Claim 5, wherein the characteristic of the image is one of color, tone, sharpness or noise ([0035-0037]).

With regarding **claim 18**, Terashita discloses the medium according to Claim 9, wherein the characteristic of the image is one of color, tone, sharpness or noise ([0035-0037]).

With regarding **claim 19**, Terashita discloses the method according to claim 2, wherein the classification of models comprises classification into one group, digital cameras of different models ([0008-0011]; by definition, **"kind"** is a class or group of individual objects of the same nature or character classified together).

With regarding **claim 20**, Terashita discloses the method according to claim 19, wherein classification of models includes classification within one group, digital cameras of different manufacturers ([0008-0011]; by definition, **"kind"** is a class or group of individual objects of the same nature or character classified together).

With regarding **claim 21**, Terashita discloses the method according to claim 19, wherein each model can fall into different classifications dependent on the characteristic ([0032-0037]).

Claim Rejections - 35 USC § 103

13.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

14.   Claims 3-4 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Terashita.

With regarding **claim 3**, Terashita fails to disclose the image processing method

wherein the digital cameras are digital cameras built into mobile phones.

Official Notice is taken that it is well known and expected in the art to build

cameras into mobile phones in order to integrate many devices into one. Therefore, it

would have been obvious to one of ordinary skill in the art to modify the device of

Terashita by having digital cameras build into mobile phones. The modifications thus

integrate a camera and a mobile phone into one device and thus reducing carrying

weight.

As Applicants have not traversed the old and well known statement set forth

above, "the image processing method wherein the digital cameras are digital cameras

built into mobile phones" is now taken as admitted prior art. See MPEP 2144.03(c).

With regarding **claim 4**, the claim contains the same limitations as claimed in

claim 3. Therefore, claim 4 is analyzed and rejected as previously discussed under

claim 3.

With regarding **claim 7**, the claim contains the same limitations as claimed in claim 3. Therefore, claim 7 is analyzed and rejected as previously discussed under claim 3.

With regarding **claim 8**, the claim contains the same limitations as claimed in claim 3. Therefore, claim 8 is analyzed and rejected as previously discussed under claim 3.

Conclusion

15.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG H. LAM whose telephone number is (571)272-7367. The examiner can normally be reached on Monday - Friday   8AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SINH TRAN can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HL
12/13/08

/Sinh N Tran/
Supervisory Patent Examiner, Art Unit 2622